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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,532	09/16/2003	Paul Brent Rivers	BE1-0028US	3579
49584	7590	09/19/2006	EXAMINER	
LEE & HAYES, PLLC 421 W. RIVERSIDE AVE. SUITE 500 SPOKANE, WA 99201			PATEL, TAJASH D	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,532

Applicant(s)

RIVERS ET AL.

Examiner

Tejash D. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 8-18, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8-18, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 6, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Castellani (US 3,500,472). Castellani discloses an upper body garment/jacket/coat/vest/shirt (V) including a base fabric having front and rear portions that has opening for the arms and the head and has a breast portion on the front portion, such that a first, substantially rectangular, shock absorbing protective panel (26,40) is attached to the left breast portion of the base fabric as shown in figure 1 which protects the upper body portion during descent from a vertical surface.

Additionally, a second, substantially rectangular, shock absorbing protective panel (24,40) is attached to the right breast portion of the base in a non-overlapping configuration as shown in figure 1. Also, the garment includes a collar portion (18). The first and second panels are positioned completely over the left and right breast portion of the base fabric as shown in figure 1. Furthermore, with regard to claim 6, at least one of pockets and loops are provided on the front portion of the base fabric as shown in figure 3.

3. Claims 2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Rolando et al. (US 4,195,362). Rolando et al (hereinafter Rolando) discloses an upper body garment/jacket/coat/vest/shirt (30) including a base fabric having front and rear portions that has opening for the arms and the head and has a breast portion on the front portion, such that a first, substantially rectangular, shock absorbing protective panel (11) is attached to the left breast portion of the base fabric as shown in figure 1, which protects the upper body portion during descent from a vertical surface.

Additionally, a second, substantially rectangular, shock absorbing protective panel (11) is attached to the right breast portion of the base in a non-overlapping configuration as shown in figure 1. Also, the garment includes a collar portion (2). The first and second panels are positioned completely over the left and right breast portion of the base fabric as shown in figure 1 and is made of a foam material, col. 2, lines 60-68. Furthermore, a pair of sleeves (8) is attached to the base fabric for receiving the arms and a protective panel (O,P) is attached to the forearm portion of each sleeve, col. 3, line 65 – col. 4, line 17 and as shown in figures 1 and 2.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-18 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castellani in view of Bachner (US 6,154,880). Castellani discloses the invention as set forth above except for showing the protective panel of the garment being made of aramid fiber such as KEVLAR.

Bachner discloses a garment having ballistic panels being made of aramid fibers such as KEVLAR with different structural properties, col. 1, line 5 – col. 15, line 35.

Col. 3, lines 49-61, states that the first and second rectangular panels includes the plate member (40) being made of any well known hard material. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to recognized that the protective panels of Castellani can be made of aramid fibers such as KEVLAR as taught by Bachner as conventionally known in the art. Further, with regard to claims 13-18, it would have been obvious that the panel of Castellani when viewed with Backner can be formed from any desired strength, denier, weight, warp count, fill count, etc through routine experimentation or depending on the end use thereof.

6. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castellani in view of Parker et al. (US 5,247,707). Castellani discloses the invention as set forth above

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except for showing loops being attached to the front portion of the garment and having the bottom of the garment being attached to a safety belt by loops.

Parker et al. (hereinafter Parker) discloses loops (16) being attached to a front portion of a garment and having the bottom of the garment being attached to a safety belt (B) by loops (14) as shown in figure 1

It would have been obvious to one skilled in the art at the time the invention was made to provide the garment of Castellani with loops being attached to the front portion of the garment and having the bottom of the garment being attached to a safety belt by loops as taught by Parker, so that desired items can be carried by the wearer while load is evenly distributed about the body or as required for a particular application thereof.

Response to Amendment

7. The amendment and arguments filed on 5/22/06 has been considered and duly noted. In view of such as newly discovered prior art reference has prompted this office action to be made new-non Final and the arguments are moot.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (571) 272-4993. The fax phone number for this group is (571) 273-8300.

September 14, 2006

A handwritten signature in black ink, appearing to read 'Tejash Patel', with a long horizontal line extending from the end of the signature.

**TEJASH PATEL
PRIMARY EXAMINER**